



February 14, 2006

ENGROSSED HOUSE BILL No. 1380

DIGEST OF HB 1380 (Updated February 13, 2006 11:15 am - DI 113)

Citations Affected: IC 2-5; IC 4-3; IC 6-3.1; IC 6-3.5; noncode.

Synopsis: Various economic development matters. Establishes a process by which the small business coordinator may submit comments about the impact of a proposed bill to the office of management and budget (OMB). Authorizes the OMB to review the comments. Requires, after review by the OMB, the comments to be posted to the general assembly's web site by the legislative services agency. Authorizes counties, cities, and towns that receive county economic development income taxes (CEDIT) to: (1) establish local venture capital funds; and (2) establish regional venture capital funds by pooling CEDIT revenues and grant proceeds. Provides that a regional venture capital fund shall be administered by a governing board. Authorizes the governing board to make grants or loans from the fund to public or private entities for economic development purposes. Revises provisions concerning average wages with respect to: (1) eligibility for an EDGE credit to retain existing jobs; and (2) the amount of an EDGE credit to create jobs. Deletes the requirement that an applicant for an EDGE credit for the retention of jobs employ at least 75 persons.

Effective: April 1, 2006; July 1, 2006.

Smith J, Walorski

(SENATE SPONSORS — FORD, LONG)

January 12, 2006, read first time and referred to Committee on Ways and Means.

January 19, 2006, amended, reported — Do Pass.

January 23, 2006, read second time, ordered engrossed.

January 24, 2006, engrossed.

January 26, 2006, read third time, passed. Yeas 94, nays 4.

SENATE ACTION

February 1, 2006, read first time and referred to Committee on Economic Development and Technology.

February 13, 2006, amended, reported favorably — Do Pass.

EH 1380—LS 6845/DI 44+



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February 14, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1380

A BILL FOR AN ACT to amend the Indiana Code concerning economic development.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 2-5-1.1-19 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2006]: **Sec. 19. The legislative services agency, under the**
4 **direction of the legislative council, shall establish a process that**
5 **permits small business impact comments concerning proposed**
6 **legislation to be posted on the general assembly's web site after**
7 **submission by the office of management and budget under**
8 **IC 4-3-22-16.**
9 SECTION 2. IC 4-3-22-16 IS ADDED TO THE INDIANA CODE
10 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
11 1, 2006]: **Sec. 16. (a) As used in this section, "coordinator" means**
12 **the following:**
13 (1) **A small business regulatory coordinator (as defined in**
14 **IC 4-22-2-28.1(b)).**
15 (2) **An ombudsman designated under IC 13-28-3-2.**

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(b) Each coordinator may review proposed legislation affecting the small businesses that are regulated by the agency or that would be regulated by the agency under proposed legislation. A coordinator may submit written comments concerning the impact of proposed legislation on small business to the OMB.

(c) The OMB may review comments received under subsection (b). The OMB may amend the comments. After completing its review, the OMB shall transmit the comments to the legislative services agency for posting on the general assembly's web site. The comments submitted under this section shall be transmitted electronically in a format suitable for posting to the general assembly's web site as determined by the legislative services agency.

SECTION 3. IC 6-3.1-13-15.5, AS AMENDED BY P.L.197-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2006]: Sec. 15.5. This section applies to an application proposing to retain existing jobs in Indiana. After receipt of an application, the corporation may enter into an agreement with the applicant for a credit under this chapter if the corporation determines that all the following conditions exist:

(1) The applicant's project will retain existing jobs performed by the employees of the applicant in Indiana.

(2) The applicant is engaged in research and development, manufacturing, or business services, according to the NAICS Manual of the United States Office of Management and Budget.

(3) The average compensation (including benefits) provided to the applicant's employees during the applicant's previous fiscal year exceeds the following:

(A) for an application submitted before January 1, 2006, the average compensation paid during that same period to all employees in the county in which the applicant's business is located by at least five percent (5%); or

(B) for an application submitted after December 31, 2005, the amount specified by the calculation associated with one (1) of the following descriptions that characterizes the number of businesses in the NAICS industry sector to which the applicant's business belongs:

(i) (A) If there is more than one (1) business in the same NAICS industry sector as the applicant's business in the county in which the applicant's business is located, determine the average compensation paid during that same period to all employees working in the same that NAICS industry sector in

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the that county in which the applicant's business is located multiplied by one hundred five percent (105%).

(ii) (B) If the applicant's business is the only business in the same NAICS industry sector in the county in which the applicant's business is located but there is more than one (1) business in the same NAICS industry sector as the applicant's business in Indiana, determine the average compensation paid during that same period to all employees working in the that NAICS industry sector throughout Indiana multiplied by one hundred five percent (105%).

(iii) If the applicant's business is the only business in the same NAICS industry sector in Indiana, determine (C) The compensation for that same period corresponding to the federal minimum wage multiplied by two hundred percent (200%).

(4) The applicant employs at least seventy-five (75) employees in Indiana.

(5) (4) The applicant has prepared a plan for the use of the credits under this chapter for:

(A) investment in facility improvements or equipment and machinery upgrades, repairs, or retrofits; or

(B) other direct business related investments, including but not limited to training.

(6) (5) Receiving the tax credit is a major factor in the applicant's decision to go forward with the project, and not receiving the tax credit will increase the likelihood of the applicant reducing jobs in Indiana.

(7) (6) Awarding the tax credit will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.

(8) (7) The applicant's business and project are economically sound and will benefit the people of Indiana by increasing or maintaining opportunities for employment and strengthening the economy of Indiana.

(9) (8) The communities affected by the potential reduction in jobs or relocation of jobs to another site outside Indiana have committed local incentives with respect to the retention of jobs in an amount determined by the corporation. For purposes of this subdivision, local incentives include, but are not limited to, cash grants, tax abatements, infrastructure improvements, investment in facility rehabilitation, construction, and training investments.

(10) (9) The credit is not prohibited by section 16 of this chapter.

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~~(11)~~ (10) If the business is located in a community revitalization enhancement district established under IC 36-7-13 or a certified technology park established under IC 36-7-32, the legislative body of the political subdivision establishing the district or park has adopted an ordinance recommending the granting of a credit amount that is at least equal to the credit amount provided in the agreement.

SECTION 4. IC 6-3.5-7-13.1, AS AMENDED BY P.L.118-2005, SECTION 2, AND AS AMENDED BY P.L.214-2005, SECTION 21, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13.1. (a) The fiscal officer of each county, city, or town for a county in which the county economic development tax is imposed shall establish an economic development income tax fund. Except as provided in sections 23, 25, 26, and 27 of this chapter, the revenue received by a county, city, or town under this chapter shall be deposited in the unit's economic development income tax fund.

(b) Except as provided in sections 15, 23, 25, 26, and 27 of this chapter, revenues from the county economic development income tax may be used as follows:

(1) By a county, city, or town for economic development projects, for paying, notwithstanding any other law, under a written agreement all or a part of the interest owed by a private developer or user on a loan extended by a financial institution or other lender to the developer or user if the proceeds of the loan are or are to be used to finance an economic development project, for the retirement of bonds under section 14 of this chapter for economic development projects, for leases under section 21 of this chapter, or for leases or bonds entered into or issued prior to the date the economic development income tax was imposed if the purpose of the lease or bonds would have qualified as a purpose under this chapter at the time the lease was entered into or the bonds were issued.

(2) By a county, city, or town for:

(A) the construction or acquisition of, or remedial action with respect to, a capital project for which the unit is empowered to issue general obligation bonds or establish a fund under any statute listed in IC 6-1.1-18.5-9.8;

(B) the retirement of bonds issued under any provision of Indiana law for a capital project;

(C) the payment of lease rentals under any statute for a capital project;

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(D) contract payments to a nonprofit corporation whose primary corporate purpose is to assist government in planning and implementing economic development projects;

(E) operating expenses of a governmental entity that plans or implements economic development projects;

(F) to the extent not otherwise allowed under this chapter, funding substance removal or remedial action in a designated unit; or

(G) funding of a revolving fund established under IC 5-1-14-14.

(3) By a county, city, or town for any lawful purpose for which money in any of its other funds may be used.

~~(4)~~ (4) By a city or county described in IC 36-7.5-2-3(b) for making transfers required by IC 36-7.5-4-2. If the county economic development income tax rate is increased after April 30, 2005, in a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000), the first three million five hundred thousand dollars (\$3,500,000) of the tax revenue that results each year from the tax rate increase shall be used by the county only to make the county's transfer required by IC 36-7.5-4-2. The first three million five hundred thousand dollars (\$3,500,000) of the tax revenue that results each year from the tax rate increase shall be paid by the county treasurer to the treasurer of the northwest Indiana regional development authority under IC 36-7.5-4-2 before certified distributions are made to the county or any cities or towns in the county under this chapter from the tax revenue that results each year from the tax rate increase. In a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000), all of the tax revenue that results each year from the tax rate increase that is in excess of the first three million five hundred thousand dollars (\$3,500,000) that results each year from the tax rate increase must be used by the county and cities and towns in the county for additional homestead credits under subdivision ~~(4)~~ (5).

~~(4)~~ (5) This subdivision applies only in a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000). Except as otherwise provided, the procedures and definitions in IC 6-1.1-20.9 apply to this subdivision. All of the tax revenue that results each year from a tax rate increase

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described in subdivision ~~(3)~~ (4) that is in excess of the first three million five hundred thousand dollars (\$3,500,000) that results each year from the tax rate increase must be used by the county and cities and towns in the county for additional homestead credits under this subdivision. The following apply to additional homestead credits provided under this subdivision:

(A) The additional homestead credits must be applied uniformly to increase the homestead credit under IC 6-1.1-20.9 for homesteads in the county, city, or town.

(B) The additional homestead credits shall be treated for all purposes as property tax levies. The additional homestead credits do not reduce the basis for determining the state property tax replacement credit under IC 6-1.1-21 or the state homestead credit under IC 6-1.1-20.9.

(C) The additional homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(D) The department of local government finance shall determine the additional homestead credit percentage for a particular year based on the amount of county economic development income tax revenue that will be used under this subdivision to provide additional homestead credits in that year.

~~(5)~~ (6) This subdivision applies only in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). Except as otherwise provided, the procedures and definitions in IC 6-1.1-20.9 apply to this subdivision. A county or a city or town in the county may use county economic development income tax revenue to provide additional homestead credits in the county, city, or town. The following apply to additional homestead credits provided under this subdivision:

(A) The county, city, or town fiscal body must adopt an ordinance authorizing the additional homestead credits. The ordinance must:

(i) be adopted before September 1 of a year to apply to property taxes first due and payable in the following year; and

(ii) specify the amount of county economic development income tax revenue that will be used to provide additional

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homestead credits in the following year.

(B) A county, city, or town fiscal body that adopts an ordinance under this subdivision must forward a copy of the ordinance to the county auditor and the department of local government finance not more than thirty (30) days after the ordinance is adopted.

(C) The additional homestead credits must be applied uniformly to increase the homestead credit under IC 6-1.1-20.9 for homesteads in the county, city, or town.

(D) The additional homestead credits shall be treated for all purposes as property tax levies. The additional homestead credits do not reduce the basis for determining the state property tax replacement credit under IC 6-1.1-21 or the state homestead credit under IC 6-1.1-20.9.

(E) The additional homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(F) The department of local government finance shall determine the additional homestead credit percentage for a particular year based on the amount of county economic development income tax revenue that will be used under this subdivision to provide additional homestead credits in that year.

(7) For a regional venture capital fund established under section 13.5 of this chapter or a local venture capital fund established under section 13.6 of this chapter.

(c) As used in this section, an economic development project is any project that:

(1) the county, city, or town determines will:

(A) promote significant opportunities for the gainful employment of its citizens;

(B) attract a major new business enterprise to the unit; or

(C) retain or expand a significant business enterprise within the unit; and

(2) involves an expenditure for:

(A) the acquisition of land;

(B) interests in land;

(C) site improvements;

(D) infrastructure improvements;

(E) buildings;

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1 (F) structures;
 2 (G) rehabilitation, renovation, and enlargement of buildings
 3 and structures;
 4 (H) machinery;
 5 (I) equipment;
 6 (J) furnishings;
 7 (K) facilities;
 8 (L) administrative expenses associated with such a project,
 9 including contract payments authorized under subsection
 10 (b)(2)(D);
 11 (M) operating expenses authorized under subsection (b)(2)(E);
 12 or
 13 (N) to the extent not otherwise allowed under this chapter,
 14 substance removal or remedial action in a designated unit;
 15 or any combination of these.

16 *(d) If there are bonds outstanding that have been issued under*
 17 *section 14 of this chapter or leases in effect under section 21 of this*
 18 *chapter, a county, city, or town may not expend money from its*
 19 *economic development income tax fund for a purpose authorized under*
 20 *subsection (b)(3) in a manner that would adversely affect owners of the*
 21 *outstanding bonds or payment of any lease rentals due.*

22 SECTION 5. IC 6-3.5-7-13.5 IS ADDED TO THE INDIANA
 23 CODE AS A NEW SECTION TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2006]: **Sec. 13.5. (a) The general assembly**
 25 **finds that counties and municipalities in Indiana have a need to**
 26 **foster economic development, the development of new technology,**
 27 **and industrial and commercial growth. The general assembly finds**
 28 **that it is necessary and proper to provide an alternative method for**
 29 **counties and municipalities to foster the following:**

- 30 (1) Economic development.
- 31 (2) The development of new technology.
- 32 (3) Industrial and commercial growth.
- 33 (4) Employment opportunities.
- 34 (5) The diversification of industry and commerce.

35 **The fostering of economic development and the development of**
 36 **new technology under this section or section 13.6 of this chapter for**
 37 **the benefit of the general public, including industrial and**
 38 **commercial enterprises, is a public purpose.**

39 **(b) The fiscal bodies of two (2) or more counties or**
 40 **municipalities may, by resolution, do the following:**

- 41 (1) **Determine that part or all the taxes received by the units**
 42 **under this chapter should be combined to foster:**

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- (A) economic development;
- (B) the development of new technology; and
- (C) industrial and commercial growth.

(2) Establish a regional venture capital fund.

(c) Each unit participating in a regional venture capital fund established under subsection (b) may deposit the following in the fund:

- (1) Taxes distributed to the unit under this chapter.**
- (2) The proceeds of public or private grants.**

(d) A regional venture capital fund shall be administered by a governing board. The expenses of administering the fund shall be paid from money in the fund. The governing board shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited into the fund. The fund is subject to an annual audit by the state board of accounts. The fund shall bear the full costs of the audit.

(e) The fiscal body of each participating unit shall approve an interlocal agreement created under IC 36-1-7 establishing the terms for the administration of the regional venture capital fund. The terms must include the following:

- (1) The membership of the governing board.**
- (2) The amount of each unit's contribution to the fund.**
- (3) The procedures and criteria under which the governing board may loan or grant money from the fund.**
- (4) The procedures for the dissolution of the fund and for the distribution of money remaining in the fund at the time of the dissolution.**

(f) An interlocal agreement made by the participating units under subsection (e) must provide that:

- (1) each of the participating units is represented by at least one (1) member of the governing board; and**
- (2) the membership of the governing board is established on a bipartisan basis so that the number of the members of the governing board who are members of one (1) political party may not exceed the number of members of the governing board required to establish a quorum.**

(g) A majority of the governing board constitutes a quorum, and the concurrence of a majority of the governing board is necessary to authorize any action.

(h) An interlocal agreement made by the participating units

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under subsection (e) must be submitted to the Indiana economic development corporation for approval before the participating units may contribute to the fund.

(i) A majority of members of a governing board of a regional venture capital fund established under this section must have at least fifteen (15) years of experience in business, finance, or venture capital.

(j) The governing board of the fund may loan or grant money from the fund to a private or public entity if the governing board finds that the loan or grant will be used by the borrower or grantee for at least one (1) of the following economic development purposes:

(1) To promote significant employment opportunities for the residents of the units participating in the regional venture capital fund.

(2) To attract a major new business enterprise to a participating unit.

(3) To develop, retain, or expand a significant business enterprise in a participating unit.

(k) The expenditures of a borrower or grantee of money from a regional venture capital fund that are considered to be for an economic development purpose include expenditures for any of the following:

(1) Research and development of technology.

(2) Job training and education.

(3) Acquisition of property interests.

(4) Infrastructure improvements.

(5) New buildings or structures.

(6) Rehabilitation, renovation, or enlargement of buildings or structures.

(7) Machinery, equipment, and furnishings.

(8) Funding small business development with respect to:

(A) prototype products or processes;

(B) marketing studies to determine the feasibility of new products or processes; or

(C) business plans for the development and production of new products or processes.

SECTION 6. IC 6-3.5-7-13.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 13.6. (a) The fiscal body of a county or municipality may, by resolution, establish a local venture capital fund.**

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1 (b) A unit establishing a local venture capital fund under
2 subsection (a) may deposit the following in the fund:

3 (1) Taxes distributed to the unit under this chapter.

4 (2) The proceeds of public or private grants.

5 (c) A local venture capital fund shall be administered by a
6 governing board. The expenses of administering the fund shall be
7 paid from money in the fund. The governing board shall invest the
8 money in the fund not currently needed to meet the obligations of
9 the fund in the same manner as other public money may be
10 invested. Interest that accrues from these investments shall be
11 deposited into the fund. The fund is subject to an annual audit by
12 the state board of accounts. The fund shall bear the full costs of the
13 audit.

14 (d) The fiscal body of a unit establishing a local venture capital
15 fund under subsection (a) shall establish the terms for the
16 administration of the local venture capital fund. The terms must
17 include the following:

18 (1) The membership of the governing board.

19 (2) The amount of the unit's contribution to the fund.

20 (3) The procedures and criteria under which the governing
21 board may loan or grant money from the fund.

22 (4) The procedures for the dissolution of the fund and for the
23 distribution of money remaining in the fund at the time of the
24 dissolution.

25 (e) A unit establishing a local venture capital fund under
26 subsection (a) must be represented by at least one (1) member of
27 the governing board.

28 (f) The membership of the governing board must be established
29 on a bipartisan basis so that the number of the members of the
30 governing board who are members of one (1) political party may
31 not exceed the number of members of the governing board
32 required to establish a quorum.

33 (g) A majority of the governing board constitutes a quorum, and
34 the concurrence of a majority of the governing board is necessary
35 to authorize any action.

36 (h) The terms established under subsection (d) for the
37 administration of the local venture capital fund must be submitted
38 to the Indiana economic development corporation for approval
39 before a unit may contribute to the fund.

40 (i) A majority of members of a governing board of a local
41 venture capital fund established under this section must have at
42 least fifteen (15) years of experience in business, finance, or venture

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1 capital.

2 (j) The governing board of the fund may loan or grant money
3 from the fund to a private or public entity if the governing board
4 finds that the loan or grant will be used by the borrower or grantee
5 for at least one (1) of the following economic development
6 purposes:

7 (1) To promote significant employment opportunities for the
8 residents of the unit establishing the local venture capital
9 fund.

10 (2) To attract a major new business enterprise to the unit.

11 (3) To develop, retain, or expand a significant business
12 enterprise in the unit.

13 (k) The expenditures of a borrower or grantee of money from
14 a local venture capital fund that are considered to be for an
15 economic development purpose include expenditures for any of the
16 following:

17 (1) Research and development of technology.

18 (2) Job training and education.

19 (3) Acquisition of property interests.

20 (4) Infrastructure improvements.

21 (5) New buildings or structures.

22 (6) Rehabilitation, renovation, or enlargement of buildings or
23 structures.

24 (7) Machinery, equipment, and furnishings.

25 (8) Funding small business development with respect to:

26 (A) prototype products or processes;

27 (B) marketing studies to determine the feasibility of new
28 products or processes; or

29 (C) business plans for the development and production of
30 new products or processes.

31 SECTION 7. [EFFECTIVE APRIL 1, 2006] IC 6-3.1-13-15.5, as
32 amended by this act, applies to applications for credits filed under
33 IC 6-3.1-13 after March 31, 2006.

34 SECTION 8. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1380, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 11, delete "The governor shall designate an employee in" and insert "**As used in this section, "coordinator" means the following:**

(1) A small business regulatory coordinator (as defined in IC 4-22-2-28.1(b)).

(2) An ombudsman designated under IC 13-28-3-2."

Page 1, delete line 12.

Page 1, line 13, delete "small business".

Page 1, line 13, delete "shall" and insert "**may**".

Page 2, line 1, delete "small business".

Page 2, line 4, delete "shall" and insert "**may**".

Page 2, delete lines 12 through 42.

Delete pages 3 through 5.

Page 6, delete lines 1 through 26.

Page 6, line 33, reset in roman "all".

Page 6, line 33, delete "at least one (1) of".

Page 6, line 33, reset in roman "exist:".

Page 6, line 33, delete "exists:".

Page 6, line 41, after "exceeds" insert "**the following:**".

Page 7, delete line 9.

Page 8, delete lines 22 through 42.

Page 9, delete lines 1 through 26.

Page 10, delete lines 2 through 42.

Delete page 11.

Page 12, delete lines 1 through 6.

Page 15, delete lines 25 through 28.

Page 15, line 29, delete "(8)" and insert "**(7)**".

Page 17, delete line 13.

Page 19, delete line 9.

Page 20, line 36, delete "IC 6-3.1-13-15,".

Page 20, line 37, delete "and IC 6-3.1-13-17, all".

Page 20, line 38, delete "apply" and insert "**applies**".

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Page 20, delete lines 40 through 42.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1380 as introduced.)

ESPICH, Chair

Committee Vote: yeas 22, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Economic Development and Technology, to which was referred House Bill No. 1380, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 4, delete lines 8 through 24.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1380 as printed January 20, 2006.)

FORD, Chairperson

Committee Vote: Yeas 5, Nays 2.

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